

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.736 OF 2005

IN

SUMMARY SUIT NO.1870 OF 2003

Bhagwandas Durgaprasad Gupta.

...Plaintiff.

vs.

United Rubber Industries.

...Defendant.

Mr.J.P.Shah, for Plaintiff.

None for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 26th June, 2006.

P.C.:-

1. The plaintiff has filed the suit for recovery of the price of the goods which, according to the plaintiff, were delivered to the defendant. The plaintiff in support of his case relied on the documents which are filed by the plaintiff with the plaint showing that the goods were supplied as per the orders placed by the defendant. The defendant has filed his reply on 23rd January, 2006. In paragraph 3, the

defendant has made a complaint that though the defendant sought inspection of the documents relied on by the plaintiff, the plaintiff has not given inspection of the documents. There is no rejoinder filed by the plaintiff denying this. If the plaintiff has not given inspection of the documents on which he relies, the plaintiff cannot be permitted to rely on the documents. If the plaintiff cannot be permitted to rely on the documents, at this stage he cannot be entitled to judgment. The summons for judgment is therefore, disposed of.

2. At this stage the learned Counsel appearing for plaintiff requested for time to file rejoinder . This matter was on board thrice during last week. The defendant did not appear, therefore, the matter was adjourned. Today the matter is again on board. When the matter was called out the defendant was absent. However, the learned Counsel appearing for plaintiff insisted that the matter be heard in the absence of defendant. Therefore, I started hearing the matter. After hearing the learned Counsel for plaintiff for some time, when it was discovered that though the plaintiff has received reply in January,2006, he has not filed any rejoinder till today, at this stage the learned Counsel appearing for plaintiff seeks time to file rejoinder. Surely, in this situation time cannot be granted. The request therefore, is rejected. Unconditional leave to defend the suit is granted to the defendant. Defendant to file written statement within a period of Eight weeks.

